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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

CLIFFORD HUANG,

Plaintiff,

v.

CIARA B. CARNEY,  
*also known as* CIARA LYNN SHIP,  
*also known as* CLAIRE THOMAS,  
*also known as*, IRIS ROSE,  
*also known as* CIARA CARNEY,

Defendant.

Case No. 2:19-cv-00845-GMN-BNW

**ORDER**

15 Before the Court is plaintiff Clifford Huang's motion for service of process by publication  
16 (ECF No. 8). The Nevada Rules of Civil Procedure ("NRCP") list several requirements that a  
17 movant must meet before the Court can authorize service by publication. Huang addressed some,  
18 but not all, of these requirements and the Court will therefore deny his motion.

19 **I. Background.<sup>1</sup>**

20 On August 15, 2019, Huang moved the Court to allow him to serve Carney via email under  
21 NRCP 4.4(b). (ECF No. 5.) The Court denied Huang's motion because he did not address all of  
22 NRCP 4.4(b)'s requirements. Namely, Huang did not identify any of Carney's social media  
23 accounts and did not explain why service by email was consistent with due process. (ECF No. 7 at  
24 6; *see also* NRCP 4.4(b)(2)(A)(ii); NRCP 4.4(b)(2)(B).) Now, Huang moves the Court to allow  
25 him to serve Carney via publication under NRCP 4.4(c). (ECF No. 8.)  
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28 <sup>1</sup> Huang is familiar with the factual allegations in this matter, which the Court set forth in its January 9, 2020 order. (ECF No. 7.) The Court will not repeat the allegations here except where necessary.

1     **II.     Service of process.**

2             The Constitution does not require any particular means of service of process. *Rio Props.,*  
3     *Inc. v. Rio Intern. Interlink*, 284 F.3d 1007, 1017 (9th Cir. 2002) (citing *Mullane v. Central Hanover*  
4     *Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Instead, it requires only that service “be reasonably  
5     calculated to provide notice and an opportunity to respond.” *Id.* To that end, service of process is  
6     governed by Rule 4 of the Federal Rules of Civil Procedure.

7             Rule 4(e) governs service of individuals located within a judicial district of the United  
8     States. FED. R. CIV. P. 4(e). It provides that service is proper by serving an individual in  
9     accordance with law of the state where the district court is located. FED. R. CIV. P. 4(e)(1). This  
10    Court is located in the District of Nevada. The Nevada Rules of Civil Procedure (“NRCP”), in  
11    turn, allow for service by publication. NRCP 4.4(c).

12            A litigant who desires to effect service by publication must meet eight requirements.  
13    NRCP 4.4(c).<sup>2</sup> The litigant must (1) establish that “the service methods provided in [NRCP] 4.2,

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16                   <sup>2</sup>       NRCP 4.4 provides:

17            (c) **Service by Publication.** If a party demonstrates that the service methods provided in Rules 4.2, 4.3, and  
18    4.4(a) and (b) are impracticable, the court may, upon motion and without notice to the person being served, direct that  
19    service be made by publication.

- 20            (1) **Conditions for Publication.** Service by publication may only be ordered when the defendant:  
21            (A) cannot, after due diligence, be found;  
22            (B) by concealment seeks to avoid service of the summons and complaint; or  
23            (C) is an absent or unknown person in an action involving real or personal property under Rule 4.4(c)(3).  
24            (2) **Motion Seeking Publication.** A motion seeking an order for service by publication must:  
25            (A) through pleadings or other evidence establish that:  
26               (i) a cause of action exists against the defendant who is to be served; and  
27               (ii) the defendant is a necessary or proper party to the action;  
28            (B) provide affidavits, declarations, or other evidence setting forth specific facts demonstrating the efforts  
29            that the plaintiff made to locate and serve the defendant;  
30            (C) provide the proposed language of the summons to be used in the publication, briefly summarizing the  
31            claims asserted and the relief sought and including any special statutory requirements;  
32            (D) suggest one or more newspapers or other periodicals in which the summons should be published that  
33            are reasonably calculated to give the defendant actual notice of the proceedings; and  
34            (E) if publication is sought based on the fact that the defendant cannot be found, provide affidavits,  
35            declarations, or other evidence establishing the following information:  
36               (i) the defendant’s last-known address;  
37               (ii) the dates during which the defendant resided at that location; and  
38               (iii) confirmation that the plaintiff is unaware of any other address at which the defendant has resided  
39            since that time, or at which the defendant can be found.

1 4.3, and 4.4(a) and (b) are impracticable”;<sup>3</sup> (2) demonstrate that the defendant cannot, after due  
2 diligence, be found, or that the defendant seeks to avoid service of process through concealment;  
3 (3) establish through pleadings or other evidence that a cause of action exists against the  
4 defendant; (4) demonstrate that the defendant is a necessary or proper party to the action; (5) set  
5 forth specific facts demonstrating the efforts plaintiff made to locate and serve the defendant;  
6 (6) provide the proposed language of the summons to be used in the publication, briefly  
7 summarizing the claims asserted and the relief sought; (7) suggest one or more newspapers in  
8 which the summons should be published that are reasonably calculated to give the defendant  
9 actual notice; and (8) provide the defendant’s last-known address, the dates during which  
10 defendant lived at that address, and confirmation that plaintiff is unaware of any other address at  
11 which defendant has resided since that time or at which defendant can be found. NRCP 4.4(c).  
12 Huang fails to establish the first and sixth requirements.

13 The Court finds that Huang has not made the requisite showing under NRCP 4.4(c)—and,  
14 by extension, federal Rule 4(e)(1)—to effect service of process upon Carney by publication.  
15 When the Court previously denied Huang’s motion to serve Carney by email under NRCP 4.4(b),  
16 it found that Huang had not “adequately explained why his proposed service method comports  
17 with due process.” (ECF No. 7 at 6:18–6:19.) Specifically, this court found that Huang had  
18 identified at least two of Carney’s email addresses but had not asserted whether Carney “uses or  
19 ever used those email addresses to send or receive communications.” *Id.* at 6:21–6:22. Huang,  
20 further, had not established that the email addresses were valid “by, for example, sending test  
21 emails that have not bounced back or returned as undeliverable.” *Id.* at 7:1–7:2. Thus, the Court  
22 found that Huang did not meet the standard to effect service under NRCP 4.4(b). But the Court  
23 did **not** find that service under NRCP 4.4(b) was impracticable.

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26 <sup>3</sup> NRCP 4.2 tracks federal Rule 4(e)(2) and permits service of an individual by either delivering a  
27 copy of the summons and complaint to the individual personally, leaving the copies at the individual’s dwelling with  
28 a person of suitable age and discretion, or delivering the copies to an agent authorized by appointment or by law to  
receive service of process. NRCP 4.2(a); FED. R. CIV. P. 4(e)(2). NRCP 4.3 governs service of individuals located  
outside Nevada or outside the United States. NRCP 4.4(a) governs service in a manner prescribed by statute. And  
NRCP 4.4(b) governs service “through any alternative service method.”

1 Now, however, impracticability under NRCP 4.4(b) is exactly what Huang must establish  
2 if he desires to serve Carney by publication under NRCP 4.4(c). He did not do so. Instead, Huang  
3 explains that “[i]n the previous motion, [he] sought service of process via e-mail. In this motion,  
4 [he] seeks permission to serve . . . via publication in the Las Vegas Review Journal.” (ECF No. 8  
5 at 6:7–6:10.) This does not establish that service by email under NRCP 4.4(b) is impracticable.  
6 Huang must *explain* why service by e-mail is impracticable.

7 Additionally, Huang did not address NRCP 4.4(c)’s sixth requirement that he “provide the  
8 proposed language of the summons to be used in the publication, briefly summarizing the claims  
9 asserted and the relief sought and including any special statutory requirements.” NRCP  
10 4.4(c)(2)(C). The Court has already issued a summons directed at Carney. It does not contain the  
11 information required by the rule and Huang has not moved for a new summons that does. Thus,  
12 the Court will deny his motion on this basis, too.

13 However, the Court finds that Huang meets the remaining six requirements under NRCP  
14 4.4(c). Huang’s motion and its supporting affidavits demonstrate that Huang hired several  
15 process servers to try and identify Carney’s residence. Huang’s process servers searched a  
16 variety of Nevada’s and Clark County’s databases, identified Carney’s last-known address, and  
17 attempted to serve her there and at other addresses where Carney resided. (ECF No. 9 at 9–27.)  
18 Huang’s motion, therefore, establishes NRCP(c)’s second, fifth, and eighth requirements because  
19 they: show that Huang exercised due diligence but could not locate Carney; set forth specific facts  
20 demonstrating Huang’s efforts to locate Carney; provide Carney’s last-known address and the  
21 dates during which she lived there; and establish that Huang is unaware of any other address  
22 where Carney resides at this time.

23 Regarding the third requirement, a cause of action is “[a] group of operative facts giving  
24 rise to one or more bases for suing” or a “legal theory of a lawsuit.” *Cause of Action*, BLACK’S  
25 LAW DICTIONARY (11th ed. 2019). Huang’s theory, set forth in his pleadings, is that Carney  
26 defrauded him of several thousand dollars through the use of lies and fictitious names. Thus,  
27 Huang meets the third requirement, too. Further, Carney is the only named defendant in this  
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1 action and the Court finds that she is a necessary and proper party. Accordingly, Huang also  
2 meets the fourth requirement.

3 Finally, Huang meets NRCP 4.4(c)'s seventh requirement because he suggested that  
4 Carney's summons be published in the Las Vegas Review-Journal. (ECF No. 8 at 6.) Huang  
5 asserts that this newspaper "covers the entire State of Nevada." (*Id.*) Carney's last-known  
6 address is here in Las Vegas, Nevada. Thus, the Court finds that Huang's proposed newspaper is  
7 reasonably calculated to give Carney actual notice. *Cf. Strohmeier v. Belanger*, No. 3:14-cv-  
8 00661-RCJ-WGC, 2019 WL 4044015, at \*4 (D. Nev. Aug. 27, 2019) (approving service by  
9 publication through the *Reno Gazette-Journal* for a defendant who lived in the Reno area).

10 In sum, the Court will deny Huang's motion because he failed to establish (1) why service  
11 under NRCP 4.4(b) is impracticable and (2) because he failed to address the requirement that the  
12 published summons "briefly summariz[e] the claims asserted and the relief sought." *See* NRCP  
13 4.4(c). If Huang chooses to again move the Court to allow for service by publication, he must do  
14 so by March 23, 2020 and include the information currently lacking. Huang is instructed that the  
15 Court cannot grant him the relief he seeks unless he addresses each of the NRCP's requirements  
16 attendant to that relief.<sup>4</sup>

### 17 **III. Conclusion.**

18 IT IS THEREFORE ORDERED that Huang's Motion for Service of Process (ECF No. 8)  
19 is DENIED without prejudice.

20 IT IS FURTHER ORDERED that if Huang wishes to file another motion requesting service  
21 by alternative means, he must do so by March 23, 2020.

22 DATED: March 2, 2020.



23  
24 BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE

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26 <sup>4</sup> The Court notes that Huang appears to have moved to serve Carney *and* the Doe defendants by  
27 publication. Huang alleges that the Doe defendants are either Carney's alter egos or "parties who actively conspired  
28 or aided and abetted [Carney] in her fraudulent and criminal scheme." ECF No. 1 at 3. To the extent that the Doe  
defendants are indeed defendants separate from Carney, Huang has not met the standard to serve them by  
publication. For example, Huang has not identified the Doe defendants' last-known addresses. *See* NRCP  
4.4(c)(2)(E)(i).